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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/680,798	10/06/2000	Alain Benayoun	FR9-1999-0035 US1	2906
42640	7590	05/04/2005	EXAMINER	
DILLON & YUDELL LLP 8911 NORTH CAPITAL OF TEXAS HWY SUITE 2110 AUSTIN, TX 78759			BURGESS, BARBARA N	
			ART UNIT	PAPER NUMBER
			2157	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/680,798	BENAYOUN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Barbara N Burgess	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 March 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,7 and 10-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1, 7, 10-27 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

This Office Action is in response to After-Final amendment filed March 17, 2005.

Claims 1, 7-27 are presented for further examination.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 7-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller et al. (hereinafter "Muller", US Patent No. 6,873,630 B1) in view of Jou (US Patent No. 6,389,000 B1).

As per claims 1, 15, 22, Muller discloses a communication device, computer program product, and method for transferring data between two devices coupled to a network, said communication device comprising:

- A dual-port memory for storing data (column 4, lines 12-16);
- A high-speed interface for transmitting, said data between a first device and said dual port memory, wherein said high-speed interface communicates data at an initial rate (column 5, lines 8-16, column 8, lines 5-12);

Art Unit: 2157

- A plurality of low-speed interfaces, each connected to a respective one of a plurality of links to said second device, for transmitting data from said dual-port memory to said respective one of said plurality of links at one of a plurality of data rates, wherein at least two of said plurality of data rates are unequal and are fractions of said initial rate, all said fractions being capable of reduction to a common denominator and at least one of said fractions being irreducible (column column 5, lines 37-46, column 7, lines 15-25).

Muller does not explicitly disclose:

- Controller for controlling said memory and said interfaces and for monitoring a data rate of said data between said memory and said plurality of links, wherein said controller includes means for cyclically distributing data to be communicated from said memory to said second device among said low-speed interfaces, such that each of said plurality of low speed interfaces receives a number of consecutive units of said data equal to the numerator of its associated fraction.

However, in an analogous art, Jou discloses a control processor selecting a format that is capable to transmitting data at a selected rate (column 5, lines 35-40, column 8, lines 11-55).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate or implement Jou's controller in Muller's device in order to transmit data a particular rate.

As per claims 7, 16, 23, Muller discloses the communication device of Claim 1, wherein, at least one of the set of said high-speed interface and said plurality of low speed interfaces comprises means for establishing a connection with a modem (column 4, lines 20-25).

As per claims 10, 17, 24, Muller discloses the communication device of Claim 1 wherein said hi-speed interface further comprises means for receiving said data at an said initial rate, wherein said initial rate is equal to a sum of said plurality of data rates (column 6, lines 15-25).

As per claims 11, 18, 25, Muller discloses the communication device of Claim 10, wherein at least two of said data rates are equal (column 8, lines 60-65).

As per claims 12, 19, 26, Muller discloses the communication device of Claim 1, wherein said initial rate equals a sum of said plurality of data rates (column 8, lines 45-55).

As per claims 13, 20, 27, Muller does not explicitly discloses the communication device of Claim 1 said controller further comprises means for reporting said data rates. However, in an analogous art, Jou discloses a control processor selecting a format that is capable to transmitting data at a selected rate (column 5, lines 35-40, column 8, lines 11-55).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate or implement Jou's controller in Muller's device in order to transmit data a particular rate.

As per claims 14, 21, Muller discloses the communication device of Claim 1, wherein said high speed interface further comprises means for transmitting said data at said initial rate wherein said initial rate is equal to a sum of said plurality of data rates and at least two of said data rates are unequal (column 7, lines 60-67).

***Response to Arguments***

3. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent 6,049,891

US Patent 6,038,674

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara N Burgess whose telephone number is (571) 272-3996. The examiner can normally be reached on M-F (8:00am-4:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Barbara N Burgess  
Examiner  
Art Unit 2157

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Ario Etienne  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

Application/Control Number: 09/680,798  
Art Unit: 2157

Page 7